

## 21 C.J.S. Courts § 130

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### Courts

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### III. Creation and Constitution; Officers of Courts

#### B. Nonjudicial Officers and Employees Generally; Interpreters

#### 3. Interpreters; Facilitators

### § 130. Interpreters and facilitators, generally

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#### West's Key Number Digest

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**Under and apart from statute, courts may appoint interpreters where the necessity for them arises.**

Where so provided by statute, an interpreter may be appointed for designated courts or purpose.<sup>1</sup> An interpreter is a bilingual person who has the duty to act as the medium between the court and the non-English-speaking person.<sup>2</sup> Even in the absence of express authority, it is the right and duty of courts to employ and swear interpreters of foreign languages in cases where the necessity for them arises.<sup>3</sup> Furthermore, if a facilitator is qualified to transmit communications from the witness to the court, then the facilitator may be appointed as an interpreter.<sup>4</sup> All interpreters in criminal cases are appointed by the court and compensated by the court.<sup>5</sup>

Due to the importance of the interpreter's function in translating court proceedings to a party, the establishment of an interpreter's qualifications is necessary<sup>6</sup> although an individual called to act as an interpreter is not required to have specific qualifications or training.<sup>7</sup> A court-appointed interpreter should be free from any appearance of interest or favor toward either party.<sup>8</sup> A disinterested interpreter should be used whenever possible to prevent a biased or slanted translation.<sup>9</sup> An interested interpreter should not be utilized unless and until the trial judge is satisfied that no disinterested person is available.<sup>10</sup> An interpreter must be sworn to interpret properly and truly.<sup>11</sup>

An interpreter is not disqualified or rendered incompetent merely because the interpreter is interested in the outcome of the particular suit;<sup>12</sup> or because the interpreter is related to a party or a witness in the proceeding,<sup>13</sup> or has had friendly relations with one of the parties;<sup>14</sup> or because the interpreter has been subpoenaed as a witness,<sup>15</sup> has listened to the testimony of other witnesses in the case,<sup>16</sup> or has testified or will testify.<sup>17</sup> If an interpreter is certified in the manner required by statute, a rebuttable presumption arises that the interpreter is qualified to interpret in trial proceedings.<sup>18</sup>

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## Footnotes

- 1 Cal.—*People v. Holtzclaw*, 76 Cal. App. 168, 243 P. 894 (2d Dist. 1926).
- 2 Mass.—*Com. v. Belete*, 37 Mass. App. Ct. 424, 640 N.E.2d 511 (1994).
- 3 Cal.—*People v. Holtzclaw*, 76 Cal. App. 168, 243 P. 894 (2d Dist. 1926).
- 4 N.Y.—*Matter of Luz P.*, 189 A.D.2d 274, 595 N.Y.S.2d 541 (2d Dep't 1993).
- 5 D.C.—*Ramirez v. U.S.*, 877 A.2d 1040 (D.C. 2005).
- 6 Ind.—*Mariscal v. State*, 687 N.E.2d 378 (Ind. Ct. App. 1997).
- 7 Tex.—*Kan v. State*, 4 S.W.3d 38 (Tex. App. San Antonio 1999), petition for discretionary review refused, (Oct. 31, 2001).
- 8 Ind.—*Ozuna v. State*, 703 N.E.2d 1093 (Ind. Ct. App. 1998).
- 9 Ga.—*Henry v. State*, 265 Ga. 732, 462 S.E.2d 737 (1995).
- 10 N.J.—*State v. Rodriguez*, 294 N.J. Super. 129, 682 A.2d 764 (Law Div. 1996).
- 11 N.Y.—*Matter of Luz P.*, 189 A.D.2d 274, 595 N.Y.S.2d 541 (2d Dep't 1993).

## Oath

An interpreter may be required to take an oath that the interpreter will make a true interpretation to the witness in a language that the witness understands and that the interpreter will make a true interpretation of the witness's answers to questions to counsel, court, or jury in the English language with the interpreter's best skill and judgment.

Cal.—*People v. Mora*, 153 Cal. App. 3d 18, 199 Cal. Rptr. 904 (2d Dist. 1984).

12 Iowa—*Paucher v. Enterprise Coal Mining Co.*, 183 Iowa 1076, 168 N.W. 86 (1918).

13 U.S.—*U.S. v. Ball*, 988 F.2d 7, 37 Fed. R. Evid. Serv. 332 (5th Cir. 1993).

Mo.—*State v. Givens*, 719 S.W.2d 25 (Mo. Ct. App. W.D. 1986).

14 Okla.—*Claycomb v. State*, 22 Okla. Crim. 315, 211 P. 429 (1923).

Pa.—*Com. v. Riley*, 354 Pa. Super. 422, 512 A.2d 22 (1986).

15 Wash.—*State v. Michel*, 20 Wash. 162, 54 P. 995 (1898).

16 Tex.—*Trevino v. State*, 83 Tex. Crim. 562, 204 S.W. 996 (1918).

17 Miss.—*Morse v. Phillips*, 157 Miss. 452, 128 So. 336 (1930).

18 Tenn.—*Denton v. State*, 945 S.W.2d 793 (Tenn. Crim. App. 1996).

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